IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

OWEST COMMUNICATIONS CORP.,)	
Plaintiff,)	
v.) 1:04CV90	3
CITY OF GREENSBORO,)	
Defendant.)	

ORDER ADOPTING MAGISTRATE JUDGE'S RECOMMENDATION

On February 24, 2005 Magistrate Judge Wallace W. Dixon filed his

Recommendation [Doc. #16] recommending that the Defendant's motion to

dismiss be granted in part and denied in part. Plaintiff Qwest Communications

Corporation filed its objections on March 11, 2005 [Doc. #18]. Having reviewed

de novo the Recommendations in light of the objections, it is determined that the

Recommendation should be accepted. Thus, for the reasons set out in the

Recommendation, Defendant's motion to dismiss Plaintiff's section 1983 action

based on a violation of section 253(c) of the FTA and a violation of Plaintiff's due

process rights under the Fourteenth Amendment is GRANTED, and Defendant's

motion to dismiss Plaintiff's dormant Commerce Clause claim is DENIED.

This the day of July 25, 2006

/s/ N. Carlton Tilley, Jr.
United States District Judge